

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

THE STATE OF TEXAS,

Plaintiff,

v.

JOSEPH R. BIDEN, in his official capacity as
President of the United States, *et al.*,

Defendants.

Civil Action No.
3:21-cv-309

MOTION FOR LEAVE TO FILE BRIEF OF THE AMERICAN
MEDICAL ASSOCIATION AS *AMICUS CURIAE* IN OPPOSITION
TO PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION

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MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

Proposed *Amicus* moves for leave to file the attached brief in opposition to Plaintiff's motion for a temporary restraining order and preliminary injunction.

Proposed *Amicus* is the American Medical Association ("AMA"). The AMA is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state.

Although the Federal Rules of Civil Procedure do not specifically provide for the filing of *amicus curiae* briefs in the district courts, district courts have discretion to permit *amicus curiae* participation. *Texas v. United States*, No. 6:21-CV-00003, 2021 WL 2172837, at *1 (S.D. Tex. Mar. 5, 2021). When determining whether to permit the filing of an

amicus curiae brief, courts consider “whether the proffered information is timely and useful or otherwise necessary to the administration of justice.” *Id.* (cleaned up); *see also Barrera v. Wolf*, No. 4:20-CV-1241, 2020 WL 5646138, at *3 (S.D. Tex. Sept. 21, 2020) (permitting *amicus curiae* participation); *Vera v. Bush*, 980 F. Supp. 254, 257 (S.D. Tex. 1997) (same). These factors strongly weigh in favor of permitting AMA to file its proposed *amicus curiae* brief.

As the leading membership organization of physicians nationally, the AMA has a strong interest in promoting public health and reducing the spread of COVID-19. The attached brief reflects the AMA’s extensive review of medical literature supporting the efficacy and safety of the COVID-19 vaccines authorized or approved by the Food and Drug Administration. Accordingly, the proposed brief will assist the Court because it sets forth medical and scientific information demonstrating that the Safer Federal Workforce Task Force’s Guidance for Federal Contractors and Subcontractors is supported by substantial evidence, that the guidance was issued to curtail an occupational health emergency, and that enjoining enforcement of the safety protocols set forth in the guidance would cause grave, severe, and irreparable harm to the public

interest.

Counsel for the AMA has consulted with the parties' counsel. Defendants have consented to this motion and to the filing of the attached *amicus curiae* brief. Counsel for Plaintiff indicated that they do not oppose this motion. The proposed *amicus curiae* brief is timely submitted to the Court. Proposed *Amicus* states that no counsel for any party authored the proposed brief in whole or in part, and no person or entity, other than *amicus* and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

Dated: November 22, 2021

Respectfully submitted,

/s/ Rachel L. Fried

Rachel L. Fried (admitted *pro hac vice*)

Jessica Anne Morton (admitted *pro hac vice*)

Jeffrey B. Dubner (*pro hac vice* pending)

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CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2021, a true and accurate copy of the foregoing motion was electronically filed with the Court using the CM/ECF system. Service on counsel for all parties will be accomplished through the Court's electronic filing system.

/s/ Rachel L. Fried

Date: November 22, 2021